

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of Section 73.215 of the)	RM-11620
Commission's Rules and Regulations)	
Contour Protection for Short-Spaced)	
FM Assignment)	
)	
To: Marlene Dortch, Secretary		
Federal Communications Commission		
Attn: Media Bureau		

COMMENTS OF MUNN-REESE, INC.

1. Munn-Reese, Inc. ("Munn-Reese"), hereby respectfully comments in support of the proposed changes to Section 73.215 of the Commission's Rules and Regulations, described in the Petition for Rule Making in this proceeding.

2. Historically, Munn-Reese has worked with many FM allocations involving the contour protection rules of §73.215. In some cases our clients have applied under these rules, and in other cases allocation studies for our clients have included other stations that have been authorized under the provisions of this rule.

3. Our experience indicates this rule has been a reasonable approach and a great help for many stations needing flexibility in locating their transmitter sites. The rule has

been straightforward and easy to implement. At the same time it has provided full protection to non-short spaced stations that were either under-built, i.e. not operating at full power and/or height above average terrain (“HAAT”), or over-built, i.e. operating at a greater height than the reference HAAT with reduced power. This has protected the rights of these stations to either upgrade to a full reference class facility, or to return to a reference class height and power for the class of their operation.

4. However, these same provisions have also been observed to create an anomaly when the protected station operates with an elevated HAAT that would require placing the antenna underground to achieve the class reference height. In these cases, the assumptions underlying the protection mechanism of §73.215 are no longer valid.

5. In the first place, the assumption that such a station might want to return to a full reference class facility at its licensed location lacks validity. When the reference HAAT would place the antenna underground, it is simply not practical—or even possible—for the station to change its antenna height to the reference HAAT.

6. Secondly, requiring the station applying under §73.215 to calculate contours based on the theoretical assumption that the antenna of the protected station is mounted underground violates the assumptions underlying the FCC propagation curves. These curves were developed to provide a relatively easy, practical way to predict FM signal coverage based on a limited amount of terrain data. This was especially important in the days before the widespread availability of computerized terrain databases. Attempts have been made to develop more sophisticated

propagation models using more modern technology. However, these attempts have also introduced variables and complexities that the Commission has declined to adopt for allocation purposes. But regardless of the propagation model chosen, the assumption has always been that the antenna was located above ground and radiating through the atmosphere—not the crust of the earth.

7. The proposed rulemaking addresses these invalid assumptions. And it does so in a way that preserves the straightforward simplicity of the FCC propagation curves. Therefore, it does not introduce variables about which competing applicants can argue.

8. In theory, it would seem wise to compute both the service and interference contours of the non-short spaced station by requiring the protected antenna be located above ground. However, as a practical matter this could change the protections afforded already licensed facilities and introduce unnecessary complications. The proposed rulemaking avoids this by dealing only with the interference contour of the protected facility. Thus, no existing protections will change.

9. What the proposed rulemaking will do is provide a more realistic location for the actual interference contour of the non-short spaced station in those cases where the actual site elevation is higher than the class reference HAAT. For those stations whose antennas could be placed at the reference height without being mounted underground, nothing changes. Their ability to upgrade to or return to a reference class facility is fully protected.

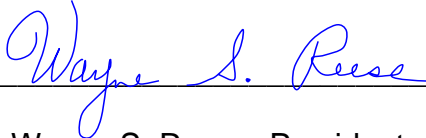
10. Munn-Reese believes the proposed rulemaking is a simple, sensible modification of the rules that will bring the way contours are computed into line with reality. It preserves full protection of all existing stations. We believe the public interest will be served by the adoption of this proposal.

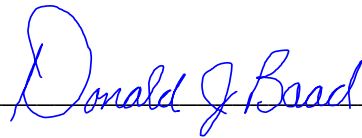
Respectfully submitted,

Munn-Reese, Inc.

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